

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1097

Introduced by Nebraska Retirement Systems Committee:
Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47;
Price, 26; Synowiecki, 7; Wehrbein, 2

Read first time January 15, 2004

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 79-921,
2 79-942, 79-946, 79-947.01, 79-951, 84-1325, and
3 84-1511.01, Reissue Revised Statutes of Nebraska,
4 sections 23-2306, 24-710.07, 81-2027.03, and 84-1307,
5 Revised Statutes Supplement, 2002, and sections 23-2301,
6 23-2320, 23-2321, 84-1301, 84-1322, and 84-1323, Revised
7 Statutes Supplement, 2003; to change provisions relating
8 to cost-of-living, supplementary, death, and termination
9 benefits and medical examinations; to redefine terms; to
10 provide powers and duties; to terminate a fund; to
11 eliminate obsolete provisions; to harmonize provisions;
12 to provide an operative date; to repeal the original
13 sections; and to declare an emergency.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2301, Revised Statutes Supplement,
2 2003, is amended to read:

3 23-2301. For purposes of the County Employees Retirement
4 Act, unless the context otherwise requires:

5 (1) Actuarial equivalent means the equality in value of
6 the aggregate amounts expected to be received under different forms
7 of an annuity payment. The mortality assumption used for purposes
8 of converting the member cash balance account shall be the 1994
9 Group Annuity Mortality Table using a unisex rate that is fifty
10 percent male and fifty percent female. For purposes of converting
11 the member cash balance account attributable to contributions made
12 prior to January 1, 1984, that were transferred pursuant to the
13 act, the 1994 Group Annuity Mortality Table for males shall be
14 used;

15 (2) Annuity means equal monthly payments provided by the
16 retirement system to a member or beneficiary under forms determined
17 by the board beginning the first day of the month after an annuity
18 election is received in the office of the Nebraska Public Employees
19 Retirement Systems or the first day of the month after the
20 employee's termination of employment, whichever is later;

21 (3) Annuity start date means the date upon which a
22 member's annuity is first effective and shall be the first day of
23 the month following the member's termination or following the date
24 the application is received by the board, whichever is later;

25 (4) Cash balance benefit means a member's retirement
26 benefit that is equal to an amount based on annual employee
27 contribution credits plus interest credits and, if vested, employer
28 contribution credits plus interest credits;

1 (5) (a) Compensation means gross wages or salaries payable
2 to the member for personal services performed during the plan year.
3 Compensation does not include compensation for unused sick leave or
4 unused vacation leave converted to cash payments, insurance
5 premiums converted into cash payments, reimbursement for expenses
6 incurred, fringe benefits, or bonuses for services not actually
7 rendered, including, but not limited to, early retirement
8 inducements, cash awards, and severance pay, except for retroactive
9 salary payments paid pursuant to court order, arbitration, or
10 litigation and grievance settlements. Compensation includes
11 overtime pay, member retirement contributions, and amounts
12 contributed by the member to plans under sections 125, 403(b), and
13 457 of the Internal Revenue Code or any other section of the code
14 which defers or excludes such amounts from income.

15 (b) Compensation in excess of the limitations set forth
16 in section 401(a)(17) of the Internal Revenue Code shall be
17 disregarded. For an employee who was a member of the retirement
18 system before the first plan year beginning after December 31,
19 1995, the limitation on compensation shall not be less than the
20 amount which was allowed to be taken into account under the
21 retirement system as in effect on July 1, 1993;

22 (6) Date of adoption of the retirement system by each
23 county means the first day of the month next following the date of
24 approval of the retirement system by the county board or January 1,
25 1987, whichever is earlier;

26 (7) Date of disability means the date on which a member
27 is determined by the board to be disabled;

28 (8) Defined contribution benefit means a member's

1 retirement benefit from a money purchase plan in which member
2 benefits equal annual contributions and earnings pursuant to
3 section 23-2309 and, if vested, employer contributions and earnings
4 pursuant to section 23-2310;

5 (9) Disability means an inability to engage in a
6 substantially gainful activity by reason of any medically
7 determinable physical or mental impairment which can be expected to
8 result in death or be of a long and indefinite duration;

9 (10) Eligibility and vesting credit means credit for
10 years, or a fraction of a year, of participation in a Nebraska
11 governmental plan for purposes of determining membership in the
12 retirement system and vesting the employer account;

13 (11) Employee means all persons or officers who are
14 employed by a county of the State of Nebraska on a permanent basis,
15 persons or officers employed by or serving in a municipal county
16 formed by at least one county participating in the retirement
17 system, persons employed as provided in section 2-1608, all elected
18 officers of a county, and such other persons or officers as are
19 classified from time to time as permanent employees by the county
20 board of the county by which they are employed, except that
21 employee does not include judges, employees or officers of any
22 county having a population in excess of one hundred fifty thousand
23 inhabitants, or, except as provided in section 23-2306, persons
24 making contributions to the School Retirement System of the State
25 of Nebraska;

26 (12) Employee contribution credit means an amount equal
27 to the member contribution amount required by section 23-2307;

28 (13) Employer contribution credit means an amount equal

1 to the employer contribution amount required by section 23-2308;

2 (14) Final account value means the value of a member's
3 account on the date the account is either distributed to the member
4 or used to purchase an annuity from the plan, which date shall
5 occur as soon as administratively practicable after receipt of a
6 valid application for benefits, but no sooner than forty-five days
7 after the member's termination;

8 (15) Five-year break in service means a period of five
9 consecutive one-year breaks in service;

10 (16) Full-time employee means an employee who is employed
11 to work one-half or more of the regularly scheduled hours during
12 each pay period;

13 (17) Future service means service following the date of
14 adoption of the retirement system;

15 (18) Guaranteed investment contract means an investment
16 contract or account offering a return of principal invested plus
17 interest at a specified rate. For investments made after July 19,
18 1996, guaranteed investment contract does not include direct
19 obligations of the United States or its instrumentalities, bonds,
20 participation certificates or other obligations of the Federal
21 National Mortgage Association, the Federal Home Loan Mortgage
22 Corporation, or the Government National Mortgage Association, or
23 collateralized mortgage obligations and other derivative
24 securities. This subdivision shall not be construed to require the
25 liquidation of investment contracts or accounts entered into prior
26 to July 19, 1996;

27 (19) Interest credit rate means the greater of (a) five
28 percent or (b) the applicable federal mid-term rate, as published

1 by the Internal Revenue Service as of the first day of the calendar
2 quarter for which interest credits are credited, plus one and
3 one-half percent, such rate to be compounded annually;

4 (20) Interest credits means the amounts credited to the
5 employee cash balance account and the employer cash balance account
6 at the end of each day. Such interest credit for each account
7 shall be determined by applying the daily portion of the interest
8 credit rate to the account balance at the end of the previous day.
9 Such interest credits shall continue to be credited to the employee
10 cash balance account and the employer cash balance account after a
11 member ceases to be an employee, except that no such credit shall
12 be made with respect to the employee cash balance account and the
13 employer cash balance account for any day beginning on or after the
14 member's date of final account value. If benefits payable to the
15 member's surviving spouse or beneficiary are delayed after the
16 member's death, interest credits shall continue to be credited to
17 the employee cash balance account and the employer cash balance
18 account until such surviving spouse or beneficiary commences
19 receipt of a distribution from the plan;

20 (21) Member cash balance account means an account equal
21 to the sum of the employee cash balance account and, if vested, the
22 employer cash balance account;

23 (22) One-year break in service means a plan year during
24 which the member has not completed more than five hundred hours of
25 service;

26 (23) Participation means qualifying for and making the
27 required deposits to the retirement system during the course of a
28 plan year;

1 (24) Part-time employee means an employee who is employed
2 to work less than one-half of the regularly scheduled hours during
3 each pay period;

4 (25) Plan year means the twelve-month period beginning on
5 January 1 and ending on December 31;

6 (26) Prior service means service prior to the date of
7 adoption of the retirement system;

8 (27) Regular interest means the rate of interest earned
9 each calendar year as determined by the retirement board in
10 conformity with actual and expected earnings on the investments
11 through December 31, 1985;

12 (28) Required contribution means the deduction to be made
13 from the compensation of employees as provided in the act;

14 (29) Retirement means qualifying for and accepting the
15 retirement benefit granted under the act after terminating
16 employment;

17 (30) Retirement board or board means the Public Employees
18 Retirement Board;

19 (31) Retirement system means the Retirement System for
20 Nebraska Counties;

21 (32) Service means the actual total length of employment
22 as an employee and is not deemed to be interrupted by (a) temporary
23 or seasonal suspension of service that does not terminate the
24 employee's employment, (b) leave of absence authorized by the
25 employer for a period not exceeding twelve months, (c) leave of
26 absence because of disability, or (d) military service, when
27 properly authorized by the retirement board. Service does not
28 include any period of disability for which disability retirement

1 benefits are received under section 23-2315;

2 (33) Surviving spouse means (a) the spouse married to the
3 member on the date of the member's death or (b) the spouse or
4 former spouse of the member if survivorship rights are provided
5 under a qualified domestic relations order filed with the board
6 pursuant to the Spousal Pension Rights Act. The spouse or former
7 spouse shall supersede the spouse married to the member on the date
8 of the member's death as provided under a qualified domestic
9 relations order. If the benefits payable to the spouse or former
10 spouse under a qualified domestic relations order are less than the
11 value of benefits entitled to the surviving spouse, the spouse
12 married to the member on the date of the member's death shall be
13 the surviving spouse for the balance of the benefits; and

14 (34) Termination of employment occurs on the date on
15 which a county which is a member of the retirement system
16 determines that its employer-employee relationship with an employee
17 is dissolved. The county shall notify the board of the date on
18 which such a termination has occurred. Termination of employment
19 does not occur if an employee whose employer-employee relationship
20 with a county is dissolved enters into an employer-employee
21 relationship with the same or another county which participates in
22 the Retirement System for Nebraska Counties and there are less than
23 one hundred twenty days between the date when the employee's
24 employer-employee relationship ceased with the county and the date
25 when the employer-employee relationship commenced with the same or
26 another county which qualifies the employee for participation in
27 the plan. It shall be the responsibility of the current employer
28 to notify the board of such change in employment and provide the

1 board with such information as the board deems necessary. If the
2 board determines that termination of employment has not occurred
3 and a termination benefit has been paid to a member of the
4 retirement system pursuant to section 23-2319, the board shall
5 require the member who has received such benefit to repay the
6 benefit to the retirement system.

7 Sec. 2. Section 23-2306, Revised Statutes Supplement,
8 2002, is amended to read:

9 23-2306. (1) The membership of the retirement system
10 shall be composed of all persons who are or were employed by member
11 counties and who maintain an account balance with the retirement
12 system.

13 (2) The following employees of member counties are
14 authorized to participate in the retirement system: (a) All
15 full-time employees who have been employees for a period of twelve
16 continuous months shall begin participation in the retirement
17 system, except that full-time elected officials shall begin
18 participation in the retirement system on taking office, (b) all
19 full-time or part-time employees who have attained the age of
20 twenty and have been employed for a total of twelve months within a
21 five-year period may exercise the option to begin participation in
22 the retirement system, and (c) all part-time elected officials may
23 exercise the option to begin participation in the retirement
24 system. An employee who exercises the option to begin
25 participation in the retirement system shall remain in the system
26 until termination or retirement, regardless of any change of status
27 as a permanent or temporary employee.

28 (3) Within the first thirty days of employment, a

1 full-time employee may apply to the board for eligibility and
2 vesting credit for years of participation in another Nebraska
3 governmental plan, as defined by section 414(d) of the Internal
4 Revenue Code. During the years of participation in the other
5 Nebraska governmental plan, the employee must have been a full-time
6 employee, as defined in the Nebraska governmental plan in which the
7 credit was earned. The board may adopt and promulgate rules and
8 regulations governing the assessment and granting of eligibility
9 and vesting credit.

10 (4) Any employee who qualifies for membership in the
11 retirement system pursuant to this section may not be disqualified
12 from membership in the retirement system solely because such
13 employee also maintains separate employment which qualifies the
14 employee for membership in another public retirement system, nor
15 may membership in this retirement system disqualify such an
16 employee from membership in another public retirement system solely
17 by reason of separate employment which qualifies such employee for
18 membership in this retirement system.

19 (5) A full-time or part-time employee of a city, village,
20 or township who becomes a county employee pursuant to a merger of
21 services shall receive credit for his or her years of employment
22 with the city, village, or township for purposes of the membership
23 provisions of this section and shall receive eligibility and
24 vesting credit for his or her years of participation in a Nebraska
25 governmental plan, as defined by section 414(d) of the Internal
26 Revenue Code, of the city, village, or township.

27 (6) A full-time or part-time employee of a city, village,
28 fire protection district, or township who becomes a municipal

1 county employee shall receive credit for his or her years of
2 employment with the city, village, fire protection district, or
3 township for purposes of the membership provisions of this section.

4 (7) Counties shall ensure that employees authorized to
5 participate in the retirement system pursuant to this section shall
6 enroll and make required contributions to the retirement system
7 within sixty days under rules and regulations adopted and
8 promulgated by the board. Information necessary to determine
9 membership in the retirement system shall be provided by the
10 employer.

11 Sec. 3. Section 23-2320, Revised Statutes Supplement,
12 2003, is amended to read:

13 23-2320. (1) Except as otherwise provided in this
14 section, a member of the retirement system who has a five-year
15 break in service shall upon reemployment be considered a new
16 employee with respect to the County Employees Retirement Act and
17 shall not receive credit for service prior to his or her
18 reemployment date.

19 (2) (a) A member who ceases to be an employee before
20 becoming eligible for retirement under section 23-2315 and again
21 becomes a permanent full-time or permanent part-time county
22 employee prior to having a five-year break in service shall be
23 reenrolled in the retirement system and resume making contributions
24 within sixty days under rules and regulations adopted by the board.
25 For purposes of vesting employer contributions made prior to and
26 after the reentry into the retirement system under subsection (3)
27 of section 23-2319, years of participation include years of
28 participation prior to such employee's original termination. For a

1 member who is not vested and has received a termination benefit
2 pursuant to section 23-2319, the years of participation prior to
3 such employee's original termination shall be limited in a ratio
4 equal to the amount that the member repays divided by the
5 termination benefit withdrawn pursuant to section 23-2319.

6 (b) The reemployed member may repay the value of, or a
7 portion of the value of, the termination benefit withdrawn pursuant
8 to section 23-2319. ~~In addition, the member may~~ A reemployed
9 member who elects to repay all or a portion of the value of the
10 termination benefit withdrawn pursuant to section 23-2319 shall
11 repay the actual earnings on such value. Repayment of the
12 termination benefit shall commence within three years of
13 reemployment and shall be completed within five years of
14 reemployment or prior to termination of employment, whichever
15 occurs first, through (i) direct payments to the retirement system,
16 (ii) installment payments made pursuant to a binding irrevocable
17 payroll deduction authorization made by the member, (iii) an
18 eligible rollover distribution as provided under the Internal
19 Revenue Code, or (iv) a direct rollover distribution made in
20 accordance with section 401(a)(31) of the Internal Revenue Code.

21 (c) The value of the member's forfeited employer account
22 or employer cash balance account, as of the date of forfeiture,
23 shall be restored in a ratio equal to the amount of the benefit
24 that the member has repaid divided by the termination benefit
25 received. The employer account or employer cash balance account
26 shall be restored first out of the current forfeiture amounts and
27 then by additional employer contributions.

28 (3) For a member who retired pursuant to section 23-2315

1 and becomes a permanent full-time employee or permanent part-time
2 employee with a county under the County Employees Retirement Act
3 more than one hundred twenty days after his or her retirement date,
4 the member shall continue receiving retirement benefits. Such a
5 retired member or a retired member who received a lump-sum
6 distribution of his or her benefit shall be considered a new
7 employee as of the date of reemployment and shall not receive
8 credit for any service prior to the member's retirement for
9 purposes of the act.

10 (4) A member who is reinstated as an employee pursuant to
11 a grievance or appeal of his or her termination by the county shall
12 be a member upon reemployment and shall not be considered to have a
13 break in service for such period of time that the grievance or
14 appeal was pending.

15 Sec. 4. Section 23-2321, Revised Statutes Supplement,
16 2003, is amended to read:

17 23-2321. In the event of the death before his or her
18 retirement date of any employee who is a member of the system, the
19 death benefit shall be equal to (1) for participants in the defined
20 contribution benefit, the total of the employee account and the
21 employer account and (2) for participants in the cash balance
22 benefit, the benefit provided in section 23-2308.01. The death
23 benefit shall be paid to the member's beneficiary, to an alternate
24 payee pursuant to a qualified domestic relations order as provided
25 in section 42-1107, or to the member's estate if there are no
26 designated beneficiaries. If the beneficiary is not the member's
27 surviving spouse, the death benefit shall be paid as a lump-sum
28 payment or payments, except that the entire account must be

1 distributed by the fifth anniversary of the member's death. If the
2 sole primary beneficiary is the member's surviving spouse, the
3 surviving spouse may elect to receive an annuity calculated as if
4 the member retired and selected a one-hundred-percent joint and
5 survivor annuity effective on the annuity purchase date. If the
6 surviving spouse does not elect the annuity option within one
7 hundred twenty days after the death of the member, the surviving
8 spouse shall receive a lump-sum payment or payments, except that
9 the entire account must be distributed by the fifth anniversary of
10 the member's death.

11 Sec. 5. Section 24-710.07, Revised Statutes Supplement,
12 2002, is amended to read:

13 24-710.07. (1) Beginning July 1, 2000, and each July 1
14 thereafter, current benefits paid to a member or beneficiary shall
15 be adjusted ~~to equal~~ so that the purchasing power of the benefit
16 being paid is not less than seventy-five percent of the annuity
17 which results when the initial benefit that was paid to the member
18 or beneficiary (before any cost-of-living adjustments or
19 supplemental retirement benefit adjustments pursuant to the Judges
20 Retirement Act) is adjusted by the increase in the purchasing power
21 of the initial benefit. The amount of the adjustment shall be
22 equal to the difference in the percentage change in the Consumer
23 Price Index for Urban Wage Earners and Clerical Workers between the
24 commencement date of the annuity and July 1 of each year the
25 adjustment is made during the benefit payment period and one
26 hundred thirty-three and one-third percent, such percentage times
27 the initial benefit, less the total of all previous supplemental
28 benefit and cost-of-living adjustments granted. The adjustment

1 pursuant to this subsection shall not cause a current benefit to be
2 reduced.

3 (2) (a) Beginning July 1, 2000, and until July 1, 2001,
4 the current benefit of a member or the beneficiary of such a member
5 shall be increased annually by the lesser of (i) the change in the
6 Consumer Price Index for Urban Wage Earners and Clerical Workers
7 published by the Bureau of Labor Statistics of the United States
8 Department of Labor for the prior year or (ii) two percent.

9 (b) Beginning July 1, 2001, the current benefit of a
10 member or the beneficiary of such a member shall be increased
11 annually by the lesser of (i) the change in the Consumer Price
12 Index for Urban Wage Earners and Clerical Workers published by the
13 Bureau of Labor Statistics of the United States Department of Labor
14 for the prior year or (ii) two and one-half percent.

15 (3) ~~The Judges Purchasing Power Stabilization Fund is~~
16 ~~created. The purpose of the fund shall be to reflect changes in~~
17 ~~the cost of living and wage levels that have occurred subsequent to~~
18 ~~the date of retirement and that have reduced the purchasing power~~
19 ~~of retirement benefits provided under the retirement system.~~
20 ~~Commencing with the 1996-97 fiscal year through the 1999-00 fiscal~~
21 ~~year, the state shall contribute to the Judges Purchasing Power~~
22 ~~Stabilization Fund an annual level dollar payment certified by the~~
23 ~~board. After the 1999-00 fiscal year, the~~ The state shall
24 contribute to the Nebraska Retirement Fund for Judges an annual
25 level dollar payment certified by the board. For the 1996-97
26 fiscal year through the 2010-11 fiscal year, the annual level
27 dollar payment certified by the board shall equal 1.04778 percent
28 of six million eight hundred ninety-five thousand dollars. ~~Until~~

1 July 1, 2000, any money in the Judges Purchasing Power
2 Stabilization Fund available for investment shall be invested by
3 the state investment officer pursuant to the Nebraska Capital
4 Expansion Act and the Nebraska State Funds Investment Act. On July
5 1, 2000, the Judges Purchasing Power Stabilization Fund shall
6 terminate and all money in the fund shall be transferred to the
7 Nebraska Retirement Fund for Judges.

8 (4) The board shall adjust the annual benefit adjustment
9 provided in this section so that the total amount of all
10 cost-of-living adjustments provided to the eligible retiree at the
11 time of the annual benefit adjustment does not exceed the change in
12 the National Consumer Price Index for Urban Wage Earners and
13 Clerical Workers published by the Bureau of Labor Statistics for
14 the period between June 30 of the prior year to June 30 of the
15 present year. If the consumer price index used in this section is
16 discontinued or replaced, a substitute index published by the
17 United States Department of Labor shall be selected by the board
18 which shall be a reasonable representative measurement of the cost
19 of living for retired employees.

20 Sec. 6. Section 79-921, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-921. (1) The membership of any person in the
23 retirement system shall cease only if he or she (a) withdraws his
24 or her accumulated contributions under section 79-955, (b) retires
25 on a school or formula or disability retirement allowance, or (c)
26 dies.

27 (2) The retirement board shall reinstate to membership,
28 with the same status as when such membership ceased, a school

1 employee who has withdrawn his or her accumulated contributions
2 under the following conditions:

3 (a) If he or she again becomes an employee and if such
4 employee chooses within three years after rejoining the system to
5 repay, within five years after the date on which he or she rejoins
6 the retirement system or prior to termination of employment,
7 whichever is first, to the retirement board part or all of the
8 amount he or she has withdrawn plus interest which would have
9 accrued on that amount under the retirement system; or

10 (b) ~~(i)~~ If, more than three years after again becoming an
11 employee and rejoining the system but prior to termination of
12 employment, he or she chooses to repay part or all of the amount he
13 or she has withdrawn, plus an amount ~~as determined in subdivision~~
14 ~~(2)(b)(ii) of this section~~ equal to the actuarial assumed rate of
15 return for the period repaid. Payment must be completed within
16 five years after electing to repay or prior to termination,
17 whichever is earlier.

18 ~~(ii)~~ The additional amount required pursuant to
19 ~~subdivision (2)(b)(i) of this section~~ shall be equal to the total
20 actual annual return that was earned on assets of the system from
21 the time the amounts were withdrawn until the fiscal year in which
22 the employee makes the election to repay. The actual annual return
23 shall be reported by the Nebraska Investment Council to the board
24 on June 30 of each year.

25 (3) Prior creditable service shall be restored in
26 proportion to the amounts repaid. A member's prior creditable
27 service shall be fully restored only if the member has repaid all
28 accumulated withdrawals in accordance with either subdivision

1 (2) (a) or (2) (b) of this section, as applicable. Repayment may be
2 made through direct payment, installment payments, or an
3 irrevocable payroll deduction authorization. If the school
4 employee chooses not to repay such withdrawals with interest, the
5 school employee shall enter the system as a new member with no
6 prior rights.

7 Sec. 7. Section 79-942, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-942. For each person who qualifies under sections
10 79-940 to 79-946, the retirement board shall determine the value of
11 the total monthly benefit being received from the School Retirement
12 System of the State of Nebraska or from the retirement system for
13 Class V districts as provided by the Class V School Employees
14 Retirement Act. From one hundred fifty-five dollars, the
15 retirement board shall subtract the total monthly benefit. Such
16 difference, if positive, shall be the supplemental benefit and
17 shall be paid to the retired person each month until July 1, 2004,
18 from the Retired Teachers Supplementary Benefits Fund and on and
19 after July 1, 2004, from the School Retirement Fund, except that if
20 this difference is less than five dollars, a minimum payment of
21 five dollars per month shall be made to such person. ~~Such fund~~
22 ~~shall be separate and not commingled with any other state funds~~
23 ~~allocated to the School Retirement System of the State of Nebraska~~
24 ~~or to the retirement system for Class V districts as provided by~~
25 ~~the Class V School Employees Retirement Act.~~

26 Sec. 8. Section 79-946, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 79-946. (1) The Retired Teachers Supplementary Benefits

1 Fund is created. The fund shall be administered by the retirement
2 board. This fund shall be considered an express obligation of the
3 state. The appropriation for such fund shall be determined by the
4 retirement board as of January 1 of each odd-numbered year and
5 included in the biennial budget to be adopted by the regular
6 session of the Legislature held in each odd-numbered year.

7 (2) On June 30, 2004, the Retired Teachers Supplementary
8 Benefits Fund shall terminate and all assets of the fund shall be
9 transferred to the School Retirement Fund. All obligations of the
10 Retired Teachers Supplementary Benefits Fund shall be paid
11 thereafter from the School Retirement Fund. The appropriation to
12 provide supplementary benefits to retired teachers shall be
13 determined as provided in subsection (1) of this section and shall
14 be made to the School Retirement Fund in the same manner and
15 amounts as had been made to the Retired Teachers Supplementary
16 Retirement Fund.

17 Sec. 9. Section 79-947.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-947.01. (1) Beginning July 1, 2000, and each July 1
20 thereafter, current benefits paid to a member or beneficiary shall
21 be adjusted ~~to equal~~ so that the purchasing power of the benefit
22 being paid is not less than seventy-five percent of the annuity
23 ~~which results when the initial benefit that was paid to the member~~
24 ~~or beneficiary (before any cost-of-living adjustments or~~
25 ~~supplemental retirement benefit adjustments pursuant to the School~~
26 ~~Employees Retirement Act)~~ is adjusted by the increase in the
27 purchasing power of the initial benefit. The amount of the
28 adjustment shall be equal to the difference in the percentage

1 change in the Consumer Price Index for Urban Wage Earners and
2 Clerical Workers ~~between the commencement date of the annuity and~~
3 ~~July 1 of each year the adjustment is made~~ during the benefit
4 payment period and one hundred thirty-three and one-third percent,
5 such percentage times the initial benefit, less the total of all
6 previous supplemental benefit and cost-of-living adjustments
7 granted. The adjustment pursuant to this subsection shall not
8 cause a current benefit to be reduced.

9 (2) (a) Beginning July 1, 2000, and until July 1, 2001,
10 the current benefit of a member or the beneficiary of such a member
11 shall be increased annually by the lesser of (i) the change in the
12 Consumer Price Index for Urban Wage Earners and Clerical Workers
13 published by the Bureau of Labor Statistics of the United States
14 Department of Labor for the prior year or (ii) two percent.

15 (b) Beginning July 1, 2001, the current benefit to a
16 member or the beneficiary of such a member shall be increased
17 annually by the lesser of (i) the change in the Consumer Price
18 Index for Urban Wage Earners and Clerical Workers published by the
19 Bureau of Labor Statistics of the United States Department of Labor
20 for the prior year or (ii) two and one-half percent.

21 (3) ~~The School Employees Purchasing Power Stabilization~~
22 ~~Fund is created.~~ The purpose of the fund shall be to reflect
23 changes in the cost of living and wage levels that have occurred
24 subsequent to the date of retirement and that have reduced the
25 purchasing power of retirement benefits provided under the
26 retirement system. Commencing with the 1996-97 fiscal year through
27 the 1999-00 fiscal year, the state shall contribute to the School
28 Employees Purchasing Power Stabilization Fund an annual level

1 ~~dollar payment certified by the board. After the 1999-00 fiscal~~
2 ~~year, the~~ The state shall contribute to the Annuity Reserve Fund an
3 annual level dollar payment certified by the board. For the
4 1996-97 fiscal year through the 2010-11 fiscal year, the annual
5 level dollar payment certified by the board shall equal 81.7873
6 percent of six million eight hundred ninety-five thousand dollars.
7 ~~Until July 1, 2000, any money in the School Employees Purchasing~~
8 ~~Power Stabilization Fund available for investment shall be invested~~
9 ~~by the state investment officer pursuant to the Nebraska Capital~~
10 ~~Expansion Act and the Nebraska State Funds Investment Act. On July~~
11 ~~1, 2000, the School Employees Purchasing Power Stabilization Fund~~
12 ~~shall terminate and all money in the fund shall be transferred to~~
13 ~~the Annuity Reserve Fund.~~

14 (4) The retirement board shall adjust the annual benefit
15 adjustment provided in this section so that the total amount of all
16 cost-of-living adjustments provided to the eligible retiree at the
17 time of the annual benefit adjustment does not exceed the change in
18 the National Consumer Price Index for Urban Wage Earners and
19 Clerical Workers published by the Bureau of Labor Statistics for
20 the period between June 30 of the prior year to June 30 of the
21 present year. If the consumer price index used in this section is
22 discontinued or replaced, a substitute index published by the
23 United States Department of Labor shall be selected by the board
24 which shall be a reasonable representative measurement of the cost
25 of living for retired employees.

26 Sec. 10. Section 79-951, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 79-951. (1) A member shall be retired on account of

1 disability, either upon his or her own application or the
2 application of his or her employer or a person acting in his or her
3 behalf, if a medical examination, made at the expense of the
4 retirement system and conducted by a competent disinterested
5 physician legally authorized to practice medicine under the laws of
6 the state in which he or she practices, selected by the retirement
7 board, shows and the physician certifies to the retirement board
8 that the member is unable to engage in a substantially gainful
9 activity by reason of any medically determinable physical or mental
10 impairment which can be expected to result in death or be of a long
11 and indefinite duration. The medical examination may be waived if,
12 in the judgment of the retirement board, extraordinary
13 circumstances exist which preclude substantial gainful activity by
14 the member. Such circumstances shall include hospice placement or
15 similar confinement for a terminal illness or injury.

16 (2) The member shall have five years from the date he or
17 she terminates employment in a public school located in Nebraska in
18 which to make application for disability retirement benefits if the
19 disability is related to employment in a public school located in
20 Nebraska. If the disability is not related to a public school
21 located in Nebraska, the member shall have one year from the date
22 he or she terminates employment in which to make application for
23 disability retirement benefits. Any application for retirement on
24 account of disability shall be made on a retirement application
25 provided by the retirement system. Upon approval by the board,
26 benefits shall begin on the disability retirement date.

27 Sec. 11. Section 81-2027.03, Revised Statutes
28 Supplement, 2002, is amended to read:

1 81-2027.03. (1) Beginning July 1, 2000, and each July 1
2 thereafter, current benefits paid to a member or beneficiary shall
3 be adjusted ~~to equal~~ so that the purchasing power of the benefit
4 being paid is not less than sixty percent of the annuity which
5 results when the initial benefit that was paid to the member or
6 beneficiary (before any cost-of-living adjustments or supplemental
7 retirement benefit adjustments pursuant to the Nebraska State
8 Patrol Retirement Act) is adjusted by the increase in the
9 purchasing power of the initial benefit. The amount of the
10 adjustment shall be equal to the difference in the percentage
11 change in the Consumer Price Index for Urban Wage Earners and
12 Clerical Workers between the commencement date of the annuity and
13 July 1 of each year the adjustment is made during the benefit
14 payment period and one hundred sixty-six and two-thirds percent,
15 such percentage times the initial benefit, less the total of all
16 previous supplemental benefit and cost-of-living adjustments
17 granted. The adjustment pursuant to this subsection shall not
18 cause a current benefit to be reduced.

19 (2)(a) Beginning July 1, 2000, and until July 1, 2001,
20 the current benefit of a member or the beneficiary of such a member
21 shall be increased annually by the lesser of (i) the change in the
22 Consumer Price Index for Urban Wage Earners and Clerical Workers
23 published by the Bureau of Labor Statistics of the United States
24 Department of Labor for the prior year or (ii) two percent.

25 (b) Beginning July 1, 2001, the current benefit of a
26 member or the beneficiary of such a member shall be increased
27 annually by the lesser of (i) the change in the Consumer Price
28 Index for Urban Wage Earners and Clerical Workers published by the

1 Bureau of Labor Statistics of the United States Department of Labor
2 for the prior year or (ii) two and one-half percent.

3 (3) ~~The State Patrol Purchasing Power Stabilization Fund~~
4 ~~is created. The purpose of the fund shall be to reflect changes in~~
5 ~~the cost of living and wage levels that have occurred subsequent to~~
6 ~~the date of retirement and that have reduced the purchasing power~~
7 ~~of retirement benefits provided under the retirement system.~~
8 ~~Commencing with the 1996-97 fiscal year through the 1999-00 fiscal~~
9 ~~year, the state shall contribute to the State Patrol Purchasing~~
10 ~~Power Stabilization Fund an annual level dollar payment certified~~
11 ~~by the board. After the 1999-00 fiscal year, the The state shall~~
12 ~~contribute to the State Patrol Retirement Fund an annual level~~
13 ~~dollar payment certified by the board. For the 1996-97 fiscal year~~
14 ~~through the 2010-11 fiscal year, the annual level dollar payment~~
15 ~~certified by the board shall equal 3.04888 percent of six million~~
16 ~~eight hundred ninety-five thousand dollars. Until July 1, 2000,~~
17 ~~any money in the State Patrol Purchasing Power Stabilization Fund~~
18 ~~available for investment shall be invested by the state investment~~
19 ~~officer pursuant to the Nebraska Capital Expansion Act and the~~
20 ~~Nebraska State Funds Investment Act. On July 1, 2000, the State~~
21 ~~Patrol Purchasing Power Stabilization Fund shall terminate and all~~
22 ~~money in the fund shall be transferred to the State Patrol~~
23 ~~Retirement Fund.~~

24 (4) The board shall adjust the annual benefit adjustment
25 provided in this section so that the total amount of all
26 cost-of-living adjustments provided to the eligible retiree at the
27 time of the annual benefit adjustment does not exceed the change in
28 the National Consumer Price Index for Urban Wage Earners and

1 Clerical Workers published by the Bureau of Labor Statistics for
2 the period between June 30 of the prior year to June 30 of the
3 present year. If the consumer price index used in this section is
4 discontinued or replaced, a substitute index published by the
5 United States Department of Labor shall be selected by the board
6 which shall be a reasonable representative measurement of the cost
7 of living for retired employees.

8 Sec. 12. Section 84-1301, Revised Statutes Supplement,
9 2003, is amended to read:

10 84-1301. For purposes of the State Employees Retirement
11 Act, unless the context otherwise requires:

12 (1) Actuarial equivalent means the equality in value of
13 the aggregate amounts expected to be received under different forms
14 of an annuity payment. The mortality assumption used for purposes
15 of converting the member cash balance account shall be the 1994
16 Group Annuity Mortality Table using a unisex rate that is fifty
17 percent male and fifty percent female. For purposes of converting
18 the member cash balance account attributable to contributions made
19 prior to January 1, 1984, that were transferred pursuant to the
20 act, the 1994 Group Annuity Mortality Table for males shall be
21 used;

22 (2) Annuity means equal monthly payments provided by the
23 retirement system to a member or beneficiary under forms determined
24 by the board beginning the first day of the month after an annuity
25 election is received in the office of the Nebraska Public Employees
26 Retirement Systems or the first day of the month after the
27 employee's termination of employment, whichever is later;

28 (3) Annuity start date means the date upon which a

1 member's annuity is first effective and shall be the first day of
2 the month following the member's termination or following the date
3 the application is received by the board, whichever is later;

4 (4) Cash balance benefit means a member's retirement
5 benefit that is equal to an amount based on annual employee
6 contribution credits plus interest credits and, if vested, employer
7 contribution credits plus interest credits;

8 (5) (a) Compensation means gross wages or salaries payable
9 to the member for personal services performed during the plan year.
10 Compensation does not include compensation for unused sick leave or
11 unused vacation leave converted to cash payments, insurance
12 premiums converted into cash payments, reimbursement for expenses
13 incurred, fringe benefits, or bonuses for services not actually
14 rendered, including, but not limited to, early retirement
15 inducements, cash awards, and severance pay, except for retroactive
16 salary payments paid pursuant to court order, arbitration, or
17 litigation and grievance settlements. Compensation includes
18 overtime pay, member retirement contributions, and amounts
19 contributed by the member to plans under sections 125, 403(b), and
20 457 of the Internal Revenue Code or any other section of the code
21 which defers or excludes such amounts from income.

22 (b) Compensation in excess of the limitations set forth
23 in section 401(a)(17) of the Internal Revenue Code shall be
24 disregarded. For an employee who was a member of the retirement
25 system before the first plan year beginning after December 31,
26 1995, the limitation on compensation shall not be less than the
27 amount which was allowed to be taken into account under the
28 retirement system as in effect on July 1, 1993;

1 (6) Date of disability means the date on which a member
2 is determined to be disabled by the board;

3 (7) Defined contribution benefit means a member's
4 retirement benefit from a money purchase plan in which member
5 benefits equal annual contributions and earnings pursuant to
6 section 84-1310 and, if vested, employer contributions and earnings
7 pursuant to section 84-1311;

8 (8) Disability means an inability to engage in a
9 substantially gainful activity by reason of any medically
10 determinable physical or mental impairment which can be expected to
11 result in death or to be of long-continued and indefinite duration;

12 (9) Eligibility and vesting credit means credit for
13 years, or a fraction of a year, of participation in a Nebraska
14 governmental plan for purposes of determining membership in the
15 system and vesting the employer account;

16 (10) Employee means any employee of the State Board of
17 Agriculture who is a member of the state retirement system on July
18 1, 1982, and any person or officer employed by the State of
19 Nebraska whose compensation is paid out of state funds or funds
20 controlled or administered by a state department through any of its
21 executive or administrative officers when acting exclusively in
22 their respective official, executive, or administrative capacities.
23 Employee does not include (a) judges as defined in section 24-701,
24 (b) members of the Nebraska State Patrol, except for those members
25 of the Nebraska State Patrol who elected pursuant to section
26 60-1304 to remain members of the State Employees Retirement System
27 of the State of Nebraska, (c) employees of the University of
28 Nebraska, (d) employees of the state colleges, (e) employees of

1 community colleges, (f) employees of the Department of Labor
2 employed prior to July 1, 1984, and paid from funds provided
3 pursuant to Title III of the federal Social Security Act or funds
4 from other federal sources, (g) the Commissioner of Labor employed
5 prior to July 1, 1984, (h) employees of the State Board of
6 Agriculture who are not members of the state retirement system on
7 July 1, 1982, (i) the Nebraska National Guard air and army
8 technicians, (j) persons eligible for membership under the School
9 Retirement System of the State of Nebraska who have not elected to
10 become members of the retirement system pursuant to section 79-920
11 or been made members of the system pursuant to such section, except
12 that those persons so eligible and who as of September 2, 1973, are
13 contributing to the State Employees Retirement System of the State
14 of Nebraska shall continue as members of such system, or (k)
15 employees of the Coordinating Commission for Postsecondary
16 Education who are eligible for and have elected to become members
17 of a qualified retirement program approved by the commission which
18 is commensurate with retirement programs at the University of
19 Nebraska. Any individual appointed by the Governor may elect not
20 to become a member of the State Employees Retirement System of the
21 State of Nebraska;

22 (11) Employee contribution credit means an amount equal
23 to the member contribution amount required by section 84-1308;

24 (12) Employer contribution credit means an amount equal
25 to the employer contribution amount required by section 84-1309;

26 (13) Final account value means the value of a member's
27 account on the date the account is either distributed to the member
28 or used to purchase an annuity from the plan, which date shall

1 occur as soon as administratively practicable after receipt of a
2 valid application for benefits, but no sooner than forty-five days
3 after the member's termination;

4 (14) Five-year break in service means five consecutive
5 one-year breaks in service;

6 (15) Full-time employee means an employee who is employed
7 to work one-half or more of the regularly scheduled hours during
8 each pay period;

9 (16) Fund means the State Employees Retirement Fund
10 created by section 84-1309;

11 (17) Guaranteed investment contract means an investment
12 contract or account offering a return of principal invested plus
13 interest at a specified rate. For investments made after July 19,
14 1996, guaranteed investment contract does not include direct
15 obligations of the United States or its instrumentalities, bonds,
16 participation certificates or other obligations of the Federal
17 National Mortgage Association, the Federal Home Loan Mortgage
18 Corporation, or the Government National Mortgage Association, or
19 collateralized mortgage obligations and other derivative
20 securities. This subdivision shall not be construed to require the
21 liquidation of investment contracts or accounts entered into prior
22 to July 19, 1996;

23 (18) Interest credit rate means the greater of (a) five
24 percent or (b) the applicable federal mid-term rate, as published
25 by the Internal Revenue Service as of the first day of the calendar
26 quarter for which interest credits are credited, plus one and
27 one-half percent, such rate to be compounded annually;

28 (19) Interest credits means the amounts credited to the

1 employee cash balance account and the employer cash balance account
2 at the end of each day. Such interest credit for each account
3 shall be determined by applying the daily portion of the interest
4 credit rate to the account balance at the end of the previous day.
5 Such interest credits shall continue to be credited to the employee
6 cash balance account and the employer cash balance account after a
7 member ceases to be an employee, except that no such credit shall
8 be made with respect to the employee cash balance account and the
9 employer cash balance account for any day beginning on or after the
10 member's date of final account value. If benefits payable to the
11 member's surviving spouse or beneficiary are delayed after the
12 member's death, interest credits shall continue to be credited to
13 the employee cash balance account and the employer cash balance
14 account until such surviving spouse or beneficiary commences
15 receipt of a distribution from the plan;

16 (20) Member cash balance account means an account equal
17 to the sum of the employee cash balance account and, if vested, the
18 employer cash balance account;

19 (21) One-year break in service means a plan year during
20 which the member has not completed more than five hundred hours of
21 service;

22 (22) Participation means qualifying for and making the
23 required deposits to the retirement system during the course of a
24 plan year;

25 (23) Part-time employee means an employee who is employed
26 to work less than one-half of the regularly scheduled hours during
27 each pay period;

28 (24) Plan year means the twelve-month period beginning on

1 January 1 and ending on December 31;

2 (25) Prior service means service before January 1, 1964;

3 (26) Regular interest means the rate of interest earned
4 each calendar year commencing January 1, 1975, as determined by the
5 retirement board in conformity with actual and expected earnings on
6 the investments through December 31, 1984;

7 (27) Required contribution means the deduction to be made
8 from the compensation of employees as provided in section 84-1308;

9 (28) Retirement means qualifying for and accepting the
10 retirement benefit granted under the State Employees Retirement Act
11 after terminating employment;

12 (29) Retirement board or board means the Public Employees
13 Retirement Board;

14 (30) Retirement system means the State Employees
15 Retirement System of the State of Nebraska;

16 (31) Service means the actual total length of employment
17 as an employee and shall not be deemed to be interrupted by (a)
18 temporary or seasonal suspension of service that does not terminate
19 the employee's employment, (b) leave of absence authorized by the
20 employer for a period not exceeding twelve months, (c) leave of
21 absence because of disability, or (d) military service, when
22 properly authorized by the retirement board. Service does not
23 include any period of disability for which disability retirement
24 benefits are received under section 84-1317;

25 (32) State department means any department, bureau,
26 commission, or other division of state government not otherwise
27 specifically defined or exempted in the act, the employees and
28 officers of which are not already covered by a retirement plan;

1 (33) Surviving spouse means (a) the spouse married to the
2 member on the date of the member's death or (b) the spouse or
3 former spouse of the member if survivorship rights are provided
4 under a qualified domestic relations order filed with the board
5 pursuant to the Spousal Pension Rights Act. The spouse or former
6 spouse shall supersede the spouse married to the member on the date
7 of the member's death as provided under a qualified domestic
8 relations order. If the benefits payable to the spouse or former
9 spouse under a qualified domestic relations order are less than the
10 value of benefits entitled to the surviving spouse, the spouse
11 married to the member on the date of the member's death shall be
12 the surviving spouse for the balance of the benefits; and

13 (34) Termination of employment occurs on the date on
14 which the agency which employs the member determines that the
15 member's employer-employee relationship with the State of Nebraska
16 is dissolved. The agency which employs the member shall notify the
17 board of the date on which such a termination has occurred.
18 Termination of employment does not occur if an employee whose
19 employer-employee relationship with the State of Nebraska is
20 dissolved enters into an employer-employee relationship with the
21 same or another agency of the State of Nebraska and there are less
22 than one hundred twenty days between the date when the employee's
23 employer-employee relationship ceased with the state and the date
24 when the employer-employee relationship commenced with the same or
25 another agency. It shall be the responsibility of the current
26 employer to notify the board of such change in employment and
27 provide the board with such information as the board deems
28 necessary. If the board determines that termination of employment

1 has not occurred and a termination benefit has been paid to a
2 member of the retirement system pursuant to section 84-1321, the
3 board shall require the member who has received such benefit to
4 repay the benefit to the retirement system.

5 Sec. 13. Section 84-1307, Revised Statutes Supplement,
6 2002, is amended to read:

7 84-1307. (1) The membership of the retirement system
8 shall be composed of all persons who are or were employed by the
9 State of Nebraska and who maintain an account balance with the
10 retirement system.

11 (2) The following employees of the State of Nebraska are
12 authorized to participate in the retirement system: (a) All
13 permanent full-time employees who have twelve continuous months of
14 service shall begin participation in the retirement system; and (b)
15 all permanent full-time or permanent part-time employees, who have
16 twelve months of service within a five-year period and who have
17 attained the age of twenty, may exercise the option to begin
18 participation in the retirement system. An employee who exercises
19 the option to begin participation in the retirement system pursuant
20 to this section shall remain in the retirement system until his or
21 her termination of employment or retirement, regardless of any
22 change of status as a permanent or temporary employee.

23 (3) For purposes of this section, (a) permanent full-time
24 employees includes employees of the Legislature or Legislative
25 Council who work one-half or more of the regularly scheduled hours
26 during each pay period of the legislative session and (b) permanent
27 part-time employees includes employees of the Legislature or
28 Legislative Council who work less than one-half of the regularly

1 scheduled hours during each pay period of the legislative session.

2 (4) Within the first thirty days of employment, a
3 full-time employee may apply to the board for eligibility and
4 vesting credit for years of participation in another Nebraska
5 governmental plan, as defined by section 414(d) of the Internal
6 Revenue Code. During the years of participation in the other
7 Nebraska governmental plan, the employee must have been a full-time
8 employee, as defined in the Nebraska governmental plan in which the
9 credit was earned. The board may adopt and promulgate rules and
10 regulations governing the assessment and granting of eligibility
11 and vesting credit.

12 (5) Any employee who qualifies for membership in the
13 retirement system pursuant to this section may not be disqualified
14 for membership in the retirement system solely because such
15 employee also maintains separate employment which qualifies the
16 employee for membership in another public retirement system, nor
17 may membership in this retirement system disqualify such an
18 employee from membership in another public employment system solely
19 by reason of separate employment which qualifies such employee for
20 membership in this retirement system.

21 (6) State agencies shall ensure that employees authorized
22 to participate in the retirement system pursuant to this section
23 shall enroll and make required contributions to the retirement
24 system within sixty days under rules and regulations adopted and
25 promulgated by the board. Information necessary to determine
26 membership in the retirement system shall be provided by the
27 employer.

28 Sec. 14. Section 84-1322, Revised Statutes Supplement,

1 2003, is amended to read:

2 84-1322. (1) Except as otherwise provided in this
3 section, a member of the retirement system who has a five-year
4 break in service shall upon reemployment be considered a new
5 employee with respect to the State Employees Retirement Act and
6 shall not receive credit for service prior to his or her
7 reemployment date.

8 (2) (a) A member who ceases to be an employee before
9 becoming eligible for retirement under section 84-1317 and again
10 becomes a permanent full-time or permanent part-time state employee
11 prior to having a five-year break in service shall be reenrolled in
12 the retirement system and resume making contributions within sixty
13 days under rules and regulations established by the board. For
14 purposes of vesting employer contributions made prior to and after
15 reentry into the retirement system under subsection (3) of section
16 84-1321, years of participation include years of participation
17 prior to such employee's original termination. For a member who is
18 not vested and has received a termination benefit pursuant to
19 section 84-1321, the years of participation prior to such
20 employee's original termination shall be limited in a ratio equal
21 to the amount that the member repays divided by the termination
22 benefit withdrawn pursuant to section 84-1321. This subsection
23 shall apply whether or not the person was a state employee on April
24 20, 1986, or July 17, 1986.

25 (b) The reemployed member may repay the value of, or a
26 portion of the value of, the termination benefit withdrawn pursuant
27 to section 84-1321. ~~In addition, the member may~~ A reemployed
28 member who elects to repay all or a portion of the value of the

1 termination benefit withdrawn pursuant to section 84-1321 shall
2 repay the actual earnings on such value. Repayment of the
3 termination benefit shall commence within three years after
4 reemployment and shall be completed within five years after
5 reemployment or prior to termination of employment, whichever
6 occurs first, through (i) direct payments to the retirement system,
7 (ii) installment payments made pursuant to a binding irrevocable
8 payroll deduction authorization made by the member, (iii) an
9 eligible rollover distribution as provided under the Internal
10 Revenue Code, or (iv) a direct rollover distribution made in
11 accordance with section 401(a)(31) of the Internal Revenue Code.

12 (c) The value of the member's forfeited employer account
13 or employer cash balance account, as of the date of forfeiture,
14 shall be restored in a ratio equal to the amount of the benefit
15 that the member has repaid divided by the termination benefit
16 received. The employer account or employer cash balance account
17 shall be restored first out of the current forfeiture amounts and
18 then by additional employer contributions.

19 (3) For a member who retired pursuant to section 84-1317
20 and becomes a permanent full-time employee or permanent part-time
21 employee with the state more than one hundred twenty days after his
22 or her retirement date, the member shall continue receiving
23 retirement benefits. Such a retired member or a retired member who
24 received a lump-sum distribution of his or her benefit shall be
25 considered a new employee as of the date of reemployment and shall
26 not receive credit for any service prior to the member's retirement
27 for purposes of the act.

28 (4) A member who is reinstated as an employee pursuant to

1 a grievance or appeal of his or her termination by the state shall
2 be a member upon reemployment and shall not be considered to have a
3 break in service for such period of time that the grievance or
4 appeal was pending.

5 Sec. 15. Section 84-1323, Revised Statutes Supplement,
6 2003, is amended to read:

7 84-1323. In the event of the death before his or her
8 retirement date of any employee who is a member of the system, the
9 death benefit shall be equal to (1) for participants in the defined
10 contribution benefit, the total of the employee account and the
11 employer account and (2) for participants in the cash balance
12 benefit, the benefit provided in section 84-1309.02. The death
13 benefit shall be paid to the member's beneficiary, to an alternate
14 payee pursuant to a qualified domestic relations order as provided
15 in section 42-1107, or to the member's estate if there are no
16 designated beneficiaries. If the beneficiary is not the member's
17 surviving spouse, the death benefit shall be paid as a lump-sum
18 payment or payments, except that the entire account must be
19 distributed by the fifth anniversary of the member's death. If the
20 sole primary beneficiary is the member's surviving spouse, the
21 surviving spouse may elect to receive an annuity calculated as if
22 the member retired and selected a one-hundred-percent joint and
23 survivor annuity effective on the annuity purchase date. If the
24 surviving spouse does not elect the annuity option within one
25 hundred twenty days after the death of the member, the surviving
26 spouse shall receive a lump-sum payment or payments, except that
27 the entire account must be distributed by the fifth anniversary of
28 the member's death.

1 Sec. 16. Section 84-1325, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 84-1325. (1) Any employee who, while an employee,
4 entered into and served ~~or shall enter into and serve~~ in the armed
5 forces of the United States and who within ninety days after
6 honorable discharge or honorable separation from active duty again
7 became ~~or becomes~~ an employee shall be credited, for the purposes
8 of the provisions of section 84-1317, with all the time actually
9 served in the armed forces as if such person had been an employee
10 throughout such service in the armed forces pursuant to the terms
11 and conditions of subsection (2) of this section.

12 (2) Under such rules and regulations as the retirement
13 board adopts and promulgates, any employee who is reemployed on or
14 after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may
15 pay to the retirement system an amount equal to the sum of all
16 deductions which would have been made from the employee's
17 compensation during such period of military service. Payment shall
18 be made within the period required by law, not to exceed five
19 years. To the extent that payment is made, (a) the employee shall
20 be treated as not having incurred a break in service by reason of
21 his or her period of military service, (b) the period of military
22 service shall be credited for the purposes of determining the
23 nonforfeitability of the member's accrued benefits and the accrual
24 of benefits under the plan, and (c) the employer shall allocate the
25 amount of employer contributions to the member's employer account
26 in the same manner and to the same extent the allocation occurs for
27 other employees during the period of service. For purposes of
28 member and employer contributions under this subsection, the

1 member's compensation during the period of military service shall
2 be the rate the member would have received but for the military
3 service or, if not reasonably determinable, the average rate the
4 member received during the twelve-month period immediately
5 preceding military service.

6 (3) The employer shall pick up the member contributions
7 made through irrevocable payroll deduction authorizations pursuant
8 to this section, and the contributions so picked up shall be
9 treated as employer contributions in the same manner as
10 contributions picked up under subsection (1) of section 84-1308.

11 Sec. 17. Section 84-1511.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 84-1511.01. (1) The Public Employees Retirement Board
14 shall establish a comprehensive retirement education and financial
15 planning program for all members of the State Employees Retirement
16 System of the State of Nebraska, ~~and after September 9, 1995,~~ for
17 all members of the Retirement System for Nebraska Counties, who are
18 under age fifty and not eligible to attend the preretirement
19 planning program established in section 84-1511. The program may
20 be provided to members in a single-day format, or may be provided
21 in equivalent partial-day segments.

22 (2) The retirement education and financial planning
23 program shall include discussion on the retirement system,
24 financial planning, and budgeting as well as any other planning
25 information valuable to employees before they reach age fifty.

26 (3) The employer shall provide each eligible employee
27 leave with pay to attend a retirement education and financial
28 planning program twice prior to age fifty. For purposes of this

1 subsection, leave with pay ~~shall mean a day means time~~ off paid by
2 the employer and shall not mean vacation, sick, personal, or
3 compensatory time. Leave with pay shall be provided to each
4 eligible employee in order that the employee may attend the full
5 retirement education and financial planning program, whether it is
6 provided in a single-day program or in the equivalent partial-day
7 segments. An employee may choose to attend a full program more
8 than twice, but leave to attend a ~~program~~ any additional single-day
9 programs or equivalent segments shall be at the expense of the
10 employee and shall be at the discretion of the employer. An
11 employee may not attend a full program more than once per fiscal
12 year.

13 (4) Funding to cover the expense of the retirement
14 education and financial planning program shall be charged
15 proportionately to the State Employees Retirement Fund and the
16 County Employees Retirement Fund.

17 (5) A nominal registration fee shall be charged each
18 person attending a retirement education and financial planning
19 program to cover the costs for meals or meeting rooms or other
20 expenses incurred for the program.

21 Sec. 18. This act becomes operative on July 1, 2004.

22 Sec. 19. Original sections 79-921, 79-942, 79-946,
23 79-947.01, 79-951, 84-1325, and 84-1511.01, Reissue Revised
24 Statutes of Nebraska, sections 23-2306, 24-710.07, 81-2027.03, and
25 84-1307, Revised Statutes Supplement, 2002, and sections 23-2301,
26 23-2320, 23-2321, 84-1301, 84-1322, and 84-1323, Revised Statutes
27 Supplement, 2003, are repealed.

28 Sec. 20. Since an emergency exists, this act takes

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1 effect when passed and approved according to law.